

ORIGINAL

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2013 JAN 29 PM 1:25

DEPUTY CLERK

SATISFIED MIND, LLC
Plaintiff

V.

**ERIC SHINSEKI, SECRETARY OF
THE DEPARTMENT OF VETERANS
AFFAIRS,**

&

**WILL A. GUNN, GENERAL COUNSEL
OF THE DEPARTMENT OF VETERANS
AFFAIRS**

Defendants.

**§
§
§** 3-13CV0397-B

Civil Action No. _____

**PLAINTIFF'S ORIGINAL COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

TO THE HONORABLE UNITED STATES DISTRICT COURT

COMES NOW, Satisfied Mind, LLC, hereinafter “Plaintiff”, and files the following complaint, directed to the United States Department of Veterans Affairs (hereinafter, “VA”) and the United States Department of Veterans Affairs Office of General Counsel (hereinafter “VA OGC”), hereinafter “Defendants”, and for cause of action, would show the Court as follows:

I. INTRODUCTION

1. This is an action by Plaintiff pursuant to the Freedom of Information Act (hereinafter, "FOIA"), 5 USC § 552, *et seq*, to order the production of agency records maintained by the VA. Plaintiff seeks the documentation set forth below and seek this Court's assistance to compel production of documents wrongfully withheld from Plaintiff and to vindicate the statutory right to inspect federal agency documents. Plaintiff asserts that there is a "significant public interest in disclosure" of the records requested by Plaintiff.
2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4) (B), the Freedom of Information Act, and 28 U.S.C. § 2201, the Federal Declaratory Judgment Act.
3. The government records which Plaintiff requests are the individual claims files (hereinafter, "C-Files") maintained by the VA in a system of records for Veterans making claims for Veterans Disability Compensation and/or Survivor Benefits claims pursuant to Title 38 of the United States Code. *See Exhibit A (FOIA Request for Veteran Douglas Dietrich); See Exhibit B (FOIA Request for Veteran William Edward Hunter).*

4. Each Veteran has waived the protection of the Privacy Act to allow Plaintiff to request these records on their behalf. *See Exhibit A, page 8 of 16 (FOIA Request for Veteran Douglas Dietrich); See Exhibit B, page 6 of 8 (FOIA Request for Veteran William Edward Hunter).*

II. JURISDICTION AND VENUE.

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, as this action arises under the laws of the United States, in particular, 5 U.S.C. § 552. In addition, this Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(b), under which, “the District Court of the United States, in the district in which the complainant resides ... has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant”, as Plaintiff’s principal place of business is in this district.

III. PARTIES.

6. Plaintiff Satisfied Mind is a Limited Liability Company, incorporated in the State of Texas. Plaintiff’s principal place of business is Dallas County, Texas.

7. Defendant Eric Shinseki is the Secretary of the Department of Veterans Affairs, which maintains its facilities throughout the Northern District of Texas.
8. Defendant Will A. Gunn is the General Counsel of the Department of Veterans Affairs, which maintains its facilities throughout the Northern District of Texas.

IV. SERVICE

9. Defendant Eric Shinseki, Secretary of the Department of Veterans Affairs, may be served by mailing a copy of this complaint and summons by certified mail to the following address: U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.
10. Defendant Will A. Gunn, General Counsel of the Department of Veterans Affairs, may be served by mailing a copy of this complaint and summons by certified mail to the following address: U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.
11. The United States of America may be served by serving the U.S. Attorney for the district in which this action is brought [U.S. Attorney's Office, ATTN: Sarah R. Saldaña, U.S. Attorney for the Northern District of Texas (Dallas Division), 1100 Commerce Street, 3rd Floor, Dallas, Texas 75242-1699] and by serving a copy of this complaint and a summons by

certified mail to the Attorney General of the United States [U.S. Attorney General, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001].

V. FACTUAL ALLEGATIONS.

12. The FOIA requires U.S. government agencies to promptly make public records available to any person if that person makes a request which (1) reasonably describes the records sought and (2) complies with any applicable agency rules for making such a request. 5 U.S.C. § 552(a)(3)(A).
13. The FOIA requires an agency to issue a final determination on any such information request within twenty (20) business days from the date of its receipt. 5 U.S.C. § 552(a)(6)(A)(i)
14. The FOIA allows an agency to extend this determination deadline, however, by ten (10) working days when “unusual circumstances” exist and when the agency so notifies a requester in writing. 5 U.S.C. § 552(a)(6)(B).
15. An agency is entitled to only one (1) ten-business day extension. *Id.* The written notice provided to the requester must specify the specific unusual circumstances justifying the extension and the date on which a final determination is expected to be dispatched. *Id.*
16. In limited circumstances, the FOIA allows an agency to invoke an extension beyond ten (10) days. To invoke a longer extension, the FOIA

requires an agency to provide written notification to the requester that (1) offers the requester an opportunity to limit the scope of the request so that it may be processed within that time limit, or (2) offers the requester an opportunity to arrange with the agency an alternative time frame for processing the request. 5 U.S.C. § 552(a)(6)(B)(ii).

17. Plaintiff served, and the VA received, a FOIA Request on November 7, 2012, seeking production of the C-File of Veteran Douglas Dietrich. *See Exhibit A, page 5 - 14.* A Privacy Act Waiver, signed by the Veteran Douglas Dietrich, was submitted with that request. *See id, at page 8.* The VA has not responded to this request.

18. In the request for Veteran Dietrich's C-File, after non-production of the requested records by the VA, Plaintiff served a timely FOIA Appeal to the VA OGC on December 14, 2012, pursuant to 5 U.S.C. § 552(a)(6)(A)(ii). *See Exhibit A, page 1 - 14.* The United States Postal Service (hereinafter, "USPS") has indicated that the VA OGC signed for this appeal on December 20, 2012, at 11:08 a.m. *See, Exhibit A, page 15.* Neither the VA nor the VA OGC has provided copies of Veteran Dietrich's C-file, despite having actual knowledge of the statutory deadline to respond within 20 working days from receipt of appeal. *See, Exhibit A, at page 1 - 2, 5 - 7.*

19. Neither the VA nor the VA OGC have responded to Plaintiff's request for the Claims File of Veteran Douglas Dietrich.
20. Plaintiff issued, and the VA received, a FOIA Request to the VA on November 16, 2012, seeking production of the C-File of Veteran William Edward Hunter. *See Exhibit B, page 3 - 7 of 8.* The VA has never responded to this request.
21. In the request for Veteran Hunter's C-File, after non-production of the requested records by the VA, the Plaintiff issued a timely FOIA Appeal to the VA OGC on November 16, 2012, pursuant to 5 U.S.C. § 552(a)(6)(A)(ii). *See Exhibit B, page 1- 7 of 8.* The USPS confirmed that the VA OGC received this appeal on December 3, 2012. *See, Exhibit B, page 8.* Neither the VA nor the VA OGC have provided copies of Veteran Hunter's C-file, despite having actual knowledge that the statutory deadline to respond to the appeal was 20 working days from receipt of the appeal. *See Exhibit B, page 2, 5.*
22. Neither the VA nor the VA OGC have responded to Plaintiff's request for the Claims File of Veteran Hunter.
23. The appeals filed in the above-referenced requests for the Claims Files of Veterans Dietrich and Veteran Hunter are now ripe for judicial review.

VI. FIRST CAUSE OF ACTION.

(FOIA Request for C-File of Veteran Dietrich)

24. Plaintiff incorporates the allegations in the foregoing paragraphs as though fully set forth herein.
25. FOIA mandates the disclosure of the documents that Plaintiff seeks in the November 7, 2012, FOIA request to the VA.
26. The VA has not provided Plaintiff with the records.
27. The VA has not sought extension to the lawful response time under FOIA.
28. No FOIA exemptions apply to this request.
29. No exceptional or unusual circumstances preclude a response to the request within twenty (20) business days of the request.
30. An actual and justiciable controversy exists as to whether the VA has violated the FOIA.
31. Plaintiff seeks declaratory judgment that FOIA entitles Plaintiff to the records it seeks as part of its November 7, 2012, FOIA request to the VA.

VII. SECOND CAUSE OF ACTION.

(FOIA Request for C-File of Veteran Hunter)

32. Plaintiff incorporates the allegations in the foregoing paragraphs as though fully set forth herein.
33. Plaintiff incorporates the allegations in the foregoing paragraphs as though fully set forth herein.

34. FOIA mandates the disclosure of the documents that Plaintiff seeks in his November 16, 2012, FOIA request to the VA.
35. The VA has not provided Plaintiff with the records.
36. The VA has not sought extension to the lawful response time under FOIA.
37. No FOIA exemptions apply to this request.
38. No exceptional or unusual circumstances preclude a response to the request within twenty (20) business days of the request.
39. An actual and justiciable controversy exists as to whether the VA has violated the FOIA.
40. Plaintiff seeks declaratory judgment that FOIA entitles Plaintiff to the records it seeks as part of its November 16, 2012, FOIA request to the VA.

VIII. THIRD CAUSE OF ACTION.

(VA Pattern and Practice of Violating the FOIA in C-File Requests)

51. Plaintiff incorporates the allegations in the foregoing paragraphs as though fully set forth herein.
52. Plaintiff frequently files FOIA requests for Veterans C-Files as a service to law firms around the country; those law firms represent US Veterans, and the surviving spouses and children of deceased US Veterans, in their Title 38 claims for Veterans' disability and survivor compensation benefits before the Department of Veterans' Affairs.

53. A Veteran's C-File is supposed to contain all records of a Veterans claim for Title 38 Compensation; it is the only file which an attorney can review so as to provide full and informed legal advice to Veterans (and their survivors) in claims for VA Disability Compensation or Survivor Benefits pursuant to Title 38.
54. A Veteran's C-File is a routine document, and a FOIA request for such a document is routine.
55. The VA habitually exceeds the twenty (20) day limit under FOIA for producing C-Files. The VA's delays in responding to FOIA Requests can easily exceed months, and in some situations does not reply to FOIA Appeals.
56. The VA Office of General Counsel routinely exceeds the twenty (20) day limit under FOIA for responding to FOIA Appeals. The VA Office of General Counsel's delay in responding to FOIA Appeals can easily exceed months, and in some situations is believed to never even reply to FOIA Appeals.
57. Because of the routine nature of the documents requested, neither the VA nor the VA OGC have ever provided Plaintiff with any indication of any unusual circumstances which would preclude timely production of C-Files in response to FOIA requests and/or FOIA Appeals.

58. Neither the VA, nor the VA OGC, have provided any indication of their respective efforts to cease such violations in the future.
59. The effect on the public disclosure is substantial, as the information in a Veteran's C-File is not available to attorneys seeking to have an informed discussion with a Veteran, about the Veteran's disability claim. In the instance of Veteran Dietrich, for example, an appeal of the denial of Title 38 Compensation Claim is currently pending review by the Court of Appeals for Veterans Claims (*Dietrich v. Shinseki*, CAVC Cause No. CITE). The review of the VA's C-file by a Veteran's counsel of record in a CAVC appeal, and its comparison to the "Record before the Agency" in that CAVC appeal to be submitted by Defendant Shinseki in that case, is of paramount importance.
60. The VA's longstanding practice and pattern of untimely responses to FOIA requests for Veterans' C-Files prejudices all Veterans' attorneys - the ability to fairly and promptly provide informed legal advice to Veterans.
61. The VA's longstanding practice and pattern of untimely responses to FOIA requests prejudices Veterans seeking informed legal advice about their VA disability claims - often depriving them of timely receipt of

benefits that their honorable and valiant military service has entitled them to.

62. Unless enjoined and made subject to a declaration of Plaintiff's legal rights by this Court, the VA will continue to violate the rights of Plaintiff and others similarly situated by maintaining its pattern or practice of unlawfully delaying and/or denying and/or ignoring responses to FOIA requests and appeals.

IX. DEMAND FOR JURY TRIAL

63. Plaintiff respectfully prays for trial by jury, where not prohibited by law.

X. PRAYER FOR RELIEF

Wherefore, Plaintiff requests this Court:

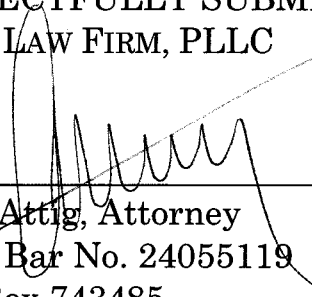
- 1) Order Defendant to provide true copies of all requested documents without further delay or obfuscation;
- 2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- 3) Award Plaintiff costs and reasonable attorney fees in this action, as provided in 5 U.S.C. §552(a)(4)(E), and/or under any other appropriate federal statute; and,
- 4) Grant such other and further relief as it may deem just and proper, including specifically:

- a) Declare that the VA's failure to produce the documents sought by Plaintiff as on behalf of Veteran Douglas Dietrich is unlawful;
- b) Order the VA to produce the records Plaintiff seeks on behalf of Veteran Dietrich;
- c) Declare that the VA's failure to produce the documents sought by Plaintiff as on behalf of Veteran Hunter is unlawful;
- d) Grant Plaintiff his attorney fees, costs, and expenses in pursuing this action as allowed by 5 U.S.C. §552(a)(4)(3);
- e) Declaration that the VA has engaged in a longstanding pattern and practice of violating FOIA's time-limit provisions and prejudiced Veterans' attorneys' ability to fairly represent their clients before the government, and/or to provide informed legal advice to Veterans in Veterans' claims before the government.
- f) Permanent Injunction ordering the United States Department of Veterans Affairs to provide Plaintiff, pursuant to a proper FOIA request, with a copy of the Veteran's VA Claims File within the 20 day time limit required by the Freedom of Information Act (FOIA) and make a determination with respect to any FOIA appeal within the 20 day time limit required by the law;

g) In the event that the court orders the production of any agency records improperly withheld from Plaintiff and assesses against the VA reasonable attorney fees and other litigation costs, that the court additionally issue a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, and directing the Special Counsel to promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding; and/or,

h) Grant other such relief as this Court may deem just and proper.

RESPECTFULLY SUBMITTED,
ATTIG LAW FIRM, PLLC



Chris Attig, Attorney
Texas Bar No. 24055119
P.O. Box 743485
Dallas, Texas 75374
Phone: (214) 431 - 4186
Fax: (214) 741 - 2337
Attorney for Plaintiff (Satisfied Mind, LLC)



Satisfied Mind, LLC

P.O. Box 743485
Dallas, Texas 75374
Phone: (847) 232-9982
Fax: (214) 764-0168

FOIA APPEAL

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

General Counsel (024),
Department of Veterans Affairs,
810 Vermont Avenue, NW,
Washington, DC 20420

Certified Article Number

7110 3701 9448 8741 1849

SENDER'S RECORD

VIA FACSIMILE AND FIRST CLASS MAIL

FOIA/Privacy Act Officer
VA Regional Office, Philadelphia
P.O. Box 13399
Philadelphia, PA 19101
FAX: (215) 381 - 3549

November 16, 2012

RE: FREEDOM OF INFORMATION ACT REQUEST

Veteran:

William Edward Hunter

Veteran's Surviving Spouse:

Teena Hunter

VA Claim No:

Veteran SSN:

Veteran's Surviving Spouse SSN:

Our Case Number:

Social Security Number and/or Individually
Identifiable Information Redacted

SMLLC.NRR201266

To Whom It May Concern:

This is an appeal under the Freedom of Information Act.

The undersigned has requested, on behalf of Veteran's Surviving Spouse Teena Hunter, also representative of the estate of Veteran William Hunter, a complete copy of Veteran William Hunter's C-File, under the Freedom of Information Act (FOIA). *See attached.* Veteran's Surviving Spouse Teena Hunter, also representative of the estate of Veteran William Hunter has waived the rights under the Privacy Act so that the documents requested may be disclosed to the undersigned party. *See attached.* The FOIA Request was served on October 11, 2012, and received by the VA Regional Office FOIA Officer in Philadelphia on

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<u>Veteran:</u>	William Edward Hunter
<u>Veteran's Surviving Spouse:</u>	Teena Hunter
<u>VA Claim No:</u>	Social Security Number and/or Individually Identifiable
<u>Veteran SSN:</u>	Information Redacted
<u>Veteran's Surviving Spouse SSN:</u>	Information Redacted
<u>Our Case Number:</u>	SMLLC.NRR201266

October 11, 2012 *See attached.* The VA Regional Office FOIA Officer has not provided the requested documents in the time permitted by law.

Veteran's Surviving Spouse Teena Hunter, also representative of the estate of Veteran William Hunter is seeking production of documents related to his VA benefits that are relevant and material to his dispute. The Dept. of Veterans Affairs is the Agency last known to have particular documents requested that are relevant and material to his appeal.

The VA's 20 working days to respond to that request have passed on November 9, 2012.

This is an appeal of the VA's failure to respond to the October 11, 2012 FOIA request. The undersigned is aware of no legitimate reason for the VA to withhold production and/or for the VA to have failed to diligently search for the documents last known to be in the possession of and/or for the VA fail to respond to the production of the documents requested pursuant to the October 11, 2012, FOIA request.

An agency is required to make a "determination" on the merits of a FOIA appeal within 20 working days of receipt. 5 U.S.C. § 552(a)(6)(A)(ii). The requestor is prepared to initiate a FOIA suit in the appropriate Federal District Court seeking disclosure of the documents, damages, and reasonable attorney fees and costs should the VA fail to respond or improperly deny this appeal as required by the Freedom of Information Act.

Please feel free to contact the understand at the contact information below to discuss any aspect of my appeal. Thank you for your prompt consideration of this appeal.

Cordially,

Jennifer Steel

Jennifer Steel, FOIA Officer
Satisfied Mind, LLC

Encl (1) FOIA Request, October 11, 2012
(1) Privacy Act Waiver
(1) Fax Receipt, October 11, 2012
cc th/file/attorney

FOIA APPEAL

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Satisfied Mind, LLC

*P.O. Box 743485
Dallas, Texas 75374
Phone: (847) 232-9982
Fax: (214) 764-0168*

FREEDOM OF INFORMATION ACT REQUEST

VIA FACSIMILE

FOIA/Privacy Act Officer
VA Regional Office, Philadelphia
P.O. Box 13399
Philadelphia, PA 19101
FAX: (215) 381 - 3549

October 11, 2012

RE: FREEDOM OF INFORMATION ACT REQUEST

<u>Veteran:</u>	William Edward Hunter
<u>Veteran's Surviving Spouse:</u>	Teena Hunter
<u>VA Claim No:</u>	Social Security Number and/or Individually
<u>Veteran SSN:</u>	Identifiable Information Redacted
<u>Veteran's Surviving Spouse SSN:</u>	
<u>Our Case Number:</u>	SMLLC.NRR201266

To Whom it May Concern:

This is a request for documents under 38 C.F.R. §1.577, the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, on behalf of Teena Hunter, representative of the Estate of William Edward Hunter (Veteran). Enclosed please find a copy of a Privacy Act Waiver signed by Teena Hunter, individually and/or on behalf of the Estate of William Edward Hunter (Veteran). This request is properly made via facsimile as it contains the signature of the requester.

1. IDENTIFICATION OF DOCUMENTS. I hereby request a copy of all documents contained in any VA claims folder for any of Veteran William Edward Hunter's VA claims (and/or any claims of Teena Hunter, for DIC, Death Pension, and/or accrued benefits), to include all documents in the right flap, left flap and center flap.

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2. FORM/FORMAT IN WHICH TO PRODUCE INFORMATION. The FOIA and the VA's own internal policies related to FOIA requests, require that the records be produced in the format sought by the requester, if the record is readily reproducible in that form or format. As such, the undersigned requests that the above-identified documents be produced in the following format:

- a) in one single PDF (Portable Document File) file;
- b) with **no** watermark, stamps, markings, writings, and/or any type of designation that is intended to identify the record as a "copy" that:
 - i) do not appear on the original records;
 - ii) appear on/in/over all or part of the body or substance of any page(s) or portion(s) of pages of the document; and/or,
 - iii) could in any way interfere with the ability of the requester to use/apply optical character recognition tools to make the PDF file text searchable;
- c) with each individual page bates-stamped; and,
- d) delivered either:
 - i) on one of the following types of media: DVD-R, CD-R, thumb drive, and/or flash drive using in sufficiently padded packaging material to prevent damage to that CD-R, thumb and/or flash drive;
 - or,
 - ii) by electronic mail to satisfiedmindllc@gmail.com

Please take special care to ensure that both sides of any two-sided documents produced in response to this request are included in the response, and are scanned into a PDF in such a way that "bleed-through" from one side of the document to the other does not occur.

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3. TIME FOR RESPONSE. Please note that this request for documents is being made pursuant to the Privacy Act, 5 U.S.C. § 552, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552a, as well as 38 C.F.R. § 1.550 and 38 C.F.R. § 1.577. Your agency has a duty to respond to this request within **TWENTY (20) BUSINESS DAYS** of the date of this request pursuant to 5 U.S.C. § 552 (a)(6)(A)(2)(i).

Additionally, although an extension of time to respond may be requested, it may only be granted for "unusual circumstances." "Predictable agency workload" is not typically considered an unusual circumstance as stated in 5 U.S.C. § 552(a)(6)(C)(ii). Moreover, even to the extent that unusual circumstances could be demonstrated in this instance, the time limit for the extension is limited to "10 working days" pursuant to 38 C.F.R. § 1.553(d).

Please also be aware that your agency's failure to respond to this request within twenty business (20) days can result in the filing of an administrative appeal with the office of the Secretary of the Department of Veterans Affairs pursuant to 38 C.F.R. § 1.557 and 5 U.S.C. § 552(a)(6)(A)(2)(ii), and/or, the filing of a federal lawsuit to compel the production of the information. In any such appeal or lawsuit, the undersigned intends to seek not only injunctive and/or monetary relief related to this request, but to the extent permitted by law, injunctive and/or monetary relief based on the Department of Veteran's Affairs patterns and/or practices of responding to FOIA requests in a manner violative of the FOIA, as well as attorney fees and litigation expenses, and any other remedy/relief available at law.

4.) Point of Contact. As discussed above, please respond to this request within twenty (20) business days. I may be contacted at (847) 232-9982. Thank you very much in advance for your assistance.

Cordially,

Jennifer Steel

Jennifer Steel, FOIA Officer
Satisfied Mind, LLC

Encl (1) Privacy Act Waiver

cc th/file

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Satisfied Mind, LLC

P.O. Box 743486
Dallas, Texas 75374
Phone: (847) 232-9983
Fax: (314) 764-0168

PRIVACY ACT WAIVER

In order to waive my rights under the Privacy Act, 5 U.S.C. § 552a(b), and under any other federal or state law or regulation which controls access to my records, I give my prior written consent to the the Department of Veterans' Affairs, the Social Security Administration, the U.S. Department of Labor, the Office of Workers' Compensation, the Office of Personnel Management (OPM), the National Archives and Record Administration (NARA), the Department of Defense, the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard, and any other Federal Agency containing the military service and/or military medical records and/or any records in or related to the VA benefits claims of the Veteran William E. Hunter and/or Teana Hunter to disclose fully and promptly to Satisfied Mind, LLC any and all records contained in my file(s) which this Firm may request.

If these records include information protected under 38 U.S.C. § 7382 about drug abuse, infection with human immunodeficiency virus (HIV), alcoholism or alcohol abuse or sickle sick anemia, I specifically consent to that disclosure as well.

Teana Hunter

Teana Hunter

10-10-12
Date

Individually,

and/or Representative of the Estate of Veteran William E. Hunter

Social Security Number and/or Individually Identifiable Information Redacted

VA Claim Number

Social Security Number and/or Individually Identifiable Information Redacted

Social Security Number (Teana Hunter)

Social Security Number and/or Individually Identifiable Information Redacted

Social Security Number (Veteran: William E. Hunter)

Social Security Number and/or Individually Identifiable Information Redacted

Telephone Number

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From: MaxEmail Send<SendAdmin@maxemail.com>
Subject: MaxEmail Send Delivery Report Job 57980409
Date: October 11, 2012 7:37:53 AM CDT
To: Satisfiedmindllc@gmail.com

Maxemail Send Job Confirmation For Job ID 57980409

Job Information

Maxemail Job ID : 57980409
Number of Pages : 0005
Recipient Count : 1
Total Charges : \$0.20
Report Time Zone: America/Chicago (GMT-0500)

File Summary

- 1) Fax cover page
- 2) 03.HUNTER.20121011 - FOIA Request C File.pdf

Recipient Delivery Summary

Delivered : 1
Errored : 0

Rec	Fax Number	Pgs*	Duration	Calls	Status	Charge
0000	2153813502	0005	00:01:37	1	Delivered	\$0.20

Individual Call Detail

Call Detail for Item 00000 ID 6943496 Sent To 2153813502 0005 Pages Delivered

Date/Time	Duration	Pgs*	Status	Charge
10/11-07:39	00:01:37	5	Transmission Successful	n/a

End Of Report

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YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
71603801984887411848	First-Class Mail®	Delivered	December 03, 2012, 4:28 am	WASHINGTON, DC 20420	

Check on Another Item

What's your label (or receipt) number?

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Satisfied Mind, LLC

P.O. Box 743485
Dallas, Texas 75374
Phone: (847) 232-9982
Fax: (214) 764-0168

FOIA APPEAL

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

Office of General Counsel (024),
VA Central Office
810 Vermont Avenue, NW,
Washington, DC 20420
CMRRR Article Number 7160-39019848-8741-1856

VIA FACSIMILE

FOIA/Privacy Act Officer
VA Regional Office, Denver
P.O. Box 25126
Denver, CO 80228
Facsimile: (303) 914-5903

FOIA/Privacy Act Officer
Board of Veterans Appeals
810 Vermont Ave., NW
Washington, DC 20420
Facsimile: (202) 275 - 5947

December 14, 2012

RE: **Veteran:**
VA Claim No:
Veteran Social Security #:
Attig Law Firm File No:

Douglas Dietrich
Social Security Number and/or Individually Identifiable
Information Redacted
NRR-2012-63

To Whom it May Concern:

This is an appeal under the Freedom of Information Act.

The undersigned made a FOIA request on behalf of the above-referenced Veteran on November 7, 2012, to both the BVA and the Denver Regional Office (the two locations where a copy of the Claims File was known to be held in the VA. *See attached requests and fax confirmations.* A Privacy Act Waiver signed by the Veteran was included in the initial FOIA request. *See attached privacy act waivers.* The request was received by the VA Privacy Act Officer on November 7, 2012. *See attached fax confirmation.*

Both the Regional Office and the BVA have failed to fulfill the request and produce the information in the timeframe required by law. Neither have provided any response to or acknowledgment of their obligations under FOIA vis-a-vis these requests.

Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
U.S. District Court, N.D. Texas (Dallas Division)
Original Petition, Exhibit A
Page 1 of 15

FOIA APPEAL TO VA OGC
SMC.NRR201263.ALF
December 14, 2012

Page 2

There is no known reason why the VA and/or BVA FOIA/Privacy Officer could not produce a copy of the information requested - this is a simple and routine FOIA Request and should be easily fulfilled in the time allotted by law. Given the VA's failure to respond in other similar simple FOIA requests from this requester, the VA's failure to respond to FOIA requests by the undersigned - both in the particular regional office, and the BVA, and indeed nationwide - is a demonstrated pattern and practice of failing to fulfill FOIA requests.

An agency is required to make a "determination" on the merits of a FOIA appeal within 20 working days of receipt. 5 U.S.C. § 552(a)(6)(A)(ii). This Firm is prepared to initiate a FOIA suit in the appropriate Federal District Court seeking disclosure of the documents, damages, and reasonable attorney fees and costs should the VA fail to respond or improperly deny this appeal as required by the Freedom of Information Act.

A copy of this letter has been provided to the litigation counsel on retainer, and that firm has informed us that they are prepared to file suit in Federal District Court, not only to seek production of the requested file, but also additional damages, including but not limited to attorney's fees/costs and special damages or sanctions against the VA resulting from the VA's pattern and practice of violating the strictures of the FOIA.

Please feel free to contact the undersigned at the contact information below to discuss any aspect of my appeal. Thank you for your prompt consideration.

Cordially,

Jennifer Steel

Jennifer Steel, FOIA Officer
Satisfied Mind, LLC

Encl (1) Privacy Act Waiver

cc jds/file
& FOIA Litigation Counsel

**Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
U.S. District Court, N.D. Texas (Dallas Division)
Original Petition, Exhibit A
Page 2 of 15**

From: MaxEmail Send<SendAdmin@maxemail.com>
Subject: MaxEmail Send Delivery Report Job 58308153
Date: November 7, 2012 9:32:19 AM CST
To: Satisfiedmindllc@gmail.com

=====

Maxemail Send Job Confirmation For Job ID 58308153

=====

Job Information

Maxemail Job ID : 58308153
Number of Pages : 0005
Recipient Count : 1
Total Charges : \$0.20
Report Time Zone: America/Chicago (GMT-0600)

File Summary

- 1) Fax cover page
- 2) 20121107.FOIA Request C File (Denver).pdf

Recipient Delivery Summary

Delivered : 1
Errorred : 0

Rec	Fax Number	Pgs*	Duration	Calls	Status	Charge
0000	3039145903	0005	00:01:36	1	Delivered	\$0.20

=====

Individual Call Detail

=====


Call Detail for Item 00000 ID 7302607 Sent To 3039145903 0005 Pages Delivered

Date/Time	Duration	Pgs*	Status	Charge
11/07-09:33	00:01:36	5	Transmission Successful	n/a

=====

End Of Report

=====

From: "Satisfied Mind, LLC" <SatisfiedMindLLC@gmail.com> 
Subject: FOIA Request for Veteran C-File
Date: November 7, 2012 9:29:21 AM CST
To: 3039145903@maxemailsend.com

1 Attachment, 184 KB



20121107.F...pdf (184 KB)

Per attached, please produce C-File:

SMLLC File No. SMLLC.NRR201263

Attachment: FOIA Request and Privacy Act Waiver

TIME IS OF THE ESSENCE DUE TO DEADLINES PENDING IN VETERAN'S TITLE 38 CLAIMS/APPEALS.

**Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
U.S. District Court, N.D. Texas (Dallas Division)
Original Petition, Exhibit A
Page 4 of 15**



Satisfied Mind, LLC

P.O. Box 743485
Dallas, Texas 75374
Phone: (847) 232-9982
Fax: (214)764-0168

FREEDOM OF INFORMATION ACT REQUEST

VIA FACSIMILE & Email

FOIA/Privacy Act Officer
VA Regional Office, Denver
P.O. Box 25126
Denver, CO 80228
Facsimile: (303) 914-5903

November 7, 2012

RE: FREEDOM OF INFORMATION ACT REQUEST

Veteran:

Douglas Dietrich

VA Claim No:

Social Security Number and/or Individually Identifiable
Information Redacted

Veteran SSN:

Our Case Number:

SMLLC.NRR201263

To Whom it May Concern:

This is a request for documents under 38 C.F.R. §1.577, the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, on behalf of Douglas Dietrich (Veteran). Enclosed please find a copy of a Privacy Act Waiver signed by Douglas Dietrich (Veteran). This request is properly made via facsimile as it contains the signature of the requester.

TIME IS OF THE ESSENCE IN THIS REQUEST DUE TO PENDING DEADLINES IN THE VETERAN'S TITLE 38 CLAIMS/APPEALS.

1. IDENTIFICATION OF DOCUMENTS. I hereby request a copy of all documents contained in any VA claims folder for any of Veteran Douglas Dietrich's VA claims, to include all documents in the right flap, left flap and center flap.

2. FORM/FORMAT IN WHICH TO PRODUCE INFORMATION. The FOIA and the VA's own internal policies related to FOIA requests, require that the records be produced in the format sought by the requester, if the record is readily

Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
U.S. District Court, N.D. Texas (Dallas Division)
Original Petition, Exhibit A
Page 5 of 15

FOIA REQUEST to VA Regional Office (Denver)
SMLLC.NRR201263
November 7, 2012

Page 2

reproducible in that form or format. As such, the undersigned requests that the above-identified documents be produced in the following format:

- a) in one single PDF (Portable Document File) file;
- b) with **no** watermark, stamps, markings, writings, and/or any type of designation that is intended to identify the record as a "copy" that:
 - i) do not appear on the original records;
 - ii) appear on/in/over all or part of the body or substance of any page(s) or portion(s) of pages of the document; and/or,
 - iii) could in any way interfere with the ability of the requester to use/apply optical character recognition tools to make the PDF file text searchable;
- c) with each individual page bates-stamped; and,
- d) delivered either:
 - i) on one of the following types of media: DVD-R, CD-R, thumb drive, and/or flash drive using in sufficiently padded packaging material to prevent damage to that CD-R, thumb and/or flash drive;
 - or,
 - ii) by electronic mail to satisfiedmindllc@gmail.com

Please take special care to ensure that both sides of any two-sided documents produced in response to this request are included in the response, and are scanned into a PDF in such a way that "bleed-through" from one side of the document to the other does not occur.

3. TIME FOR RESPONSE. Please note that this request for documents is being made pursuant to the Privacy Act, 5 U.S.C. § 552, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552a, as well as 38 C.F.R. §1.550 and 38 C.F.R. § 1.577. Your

Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
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FOIA REQUEST to VA Regional Office (Denver)
SMLLC.NRR201263
November 7, 2012

Page 3

agency has a duty to respond to this request within **TWENTY (20) BUSINESS DAYS** of the date of this request pursuant to 5 U.S.C. § 552 (a)(6)(A)(2)(i).

Additionally, although an extension of time to respond may be requested, it may only be granted for "unusual circumstances." "Predictable agency workload" is not typically considered an unusual circumstance as stated in 5 U.S.C. § 552(a)(6)(C)(ii). Moreover, even to the extent that unusual circumstances could be demonstrated in this instance, the time limit for the extension is limited to "10 working days" pursuant to 38 C.F.R. § 1.553(d).

Please also be aware that your agency's failure to respond to this request within twenty business (20) days can result in the filing of an administrative appeal with the office of the Secretary of the Department of Veterans Affairs pursuant to 38 C.F.R. § 1.557 and 5 U.S.C. § 552(a)(6)(A)(2)(ii), and/or, the filing of a federal lawsuit to compel the production of the information. In any such appeal or lawsuit, the undersigned intends to seek not only injunctive and/or monetary relief related to this request, but to the extent permitted by law, injunctive and/or monetary relief based on the Department of Veteran's Affairs patterns and/or practices of responding to FOIA requests in a manner violative of the FOIA, as well as attorney fees and litigation expenses, and any other remedy/relief available at law.

4.) Point of Contact. As discussed above, please respond to this request within twenty (20) business days. I may be contacted at (847) 232-9982. Thank you very much in advance for your assistance.

Cordially,
Jennifer Steel
Jennifer Steel, FOIA Officer
Satisfied Mind, LLC

Encl (1) Privacy Act Waiver

cc dd/file

Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
U.S. District Court, N.D. Texas (Dallas Division)
Original Petition, Exhibit A
Page 7 of 15



Satisfied Mind, LLC

Phone: (847) 232-9982

Fax: (214) 764-0168

PRIVACY ACT WAIVER

In order to waive my rights under the Privacy Act, 5 U.S.C. § 552a(b), and under any other federal or state law or regulation which controls access to my records, I give my prior written consent to the the Department of Veterans' Affairs, the Social Security Administration, the U.S. Department of Labor, the Office of Workers' Compensation, the Office of Personnel Management (OPM), the National Archives and Record Administration (NARA), the Department of Defense, the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard, and any other Federal Agency containing the military service and/or military medical records and/or any records in or related to the VA benefits claims of the Veteran Douglas D. Dietrich to disclose fully and promptly to Satisfied Mind, LLC, any and all records contained in my file(s) which this Company may request.

If these records include information protected under 38 U.S.C. § 7332 about drug abuse, infection with human immunodeficiency virus (HIV), alcoholism or alcohol abuse or sickle cell anemia, I specifically consent to that disclosure as well.

Signature: [Signature]

Date: 11/15/2012

Name (Veteran): Douglas D. Dietrich

VA Claim Number: [Redacted] Social Security Number and/or Individually Identifiable Information

Social Security Number: [Redacted]

Telephone Number: [Redacted]

VA Regional Office handling claim: Denver

Phone: (847) 232-9982

Fax: (214) 764-0168

From: MaxEmail Send<SendAdmin@maxemail.com>
Subject: MaxEmail Send Delivery Report Job 58308153
Date: November 7, 2012 9:32:19 AM CST
To: Satisfiedmindllc@gmail.com

=====

Maxemail Send Job Confirmation For Job ID 58308153

=====

Job Information

Maxemail Job ID : 58308153
Number of Pages : 0005
Recipient Count : 1
Total Charges : \$0.20
Report Time Zone: America/Chicago (GMT-0600)

File Summary

- 1) Fax cover page
- 2) 20121107.FOIA Request C File (Denver).pdf

Recipient Delivery Summary

Delivered : 1
Errorred : 0

Rec	Fax Number	Pgs*	Duration	Calls	Status	Charge
0000	3039145903	0005	00:01:36	1	Delivered	\$0.20

=====

Individual Call Detail

=====


Call Detail for Item 00000 ID 7302607 Sent To 3039145903 0005 Pages Delivered

Date/Time	Duration	Pgs*	Status	Charge
11/07-09:33	00:01:36	5	Transmission Successful	n/a

=====

End Of Report

=====

From: "Satisfied Mind, LLC" <SatisfiedMindLLC@gmail.com> 
Subject: FOIA Request for Veteran C-File
Date: November 7, 2012 9:30:00 AM CST
To: 2022755947@maxemailsend.com

1 Attachment, 185 KB



20121107.F...pdf (185 KB)

Per attached, please produce C-File:

SMLLC File No. SMLLC.NRR201263

Attachment: FOIA Request and Privacy Act Waiver

**TIME IS OF THE ESSENCE DUE TO DEADLINES PENDING IN VETERAN'S TITLE 38
CLAIMS/APPEALS.**

**Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
U.S. District Court, N.D. Texas (Dallas Division)
Original Petition, Exhibit A
Page 10 of 15**



Satisfied Mind, LLC

P.O. Box 743485
Dallas, Texas 75374
Phone: (847) 232-9982
Fax: (214)764-0168

FREEDOM OF INFORMATION ACT REQUEST

VIA FACSIMILE & Email

FOIA/Privacy Act Officer
Board of Veterans Appeals
810 Vermont Ave., NW
Washington, DC 20420
Facsimile: (202) 275 - 5947

November 7, 2012

RE: FREEDOM OF INFORMATION ACT REQUEST

<u>Veteran:</u>	Douglas Dietrich
<u>VA Claim No:</u>	CSS 534708535
<u>Veteran SSN:</u>	534-70-8535
<u>Our Case Number:</u>	SMLLC.NRR201263

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FOIA REQUEST to VA Regional Office (Denver)
SMLLC.NRR201263
November 7, 2012

Page 2

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- a) in one single PDF (Portable Document File) file;
- b) with **no** watermark, stamps, markings, writings, and/or any type of designation that is intended to identify the record as a "copy" that:
 - i) do not appear on the original records;
 - ii) appear on/in/over all or part of the body or substance of any page(s) or portion(s) of pages of the document; and/or,
 - iii) could in any way interfere with the ability of the requester to use/apply optical character recognition tools to make the PDF file text searchable;
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- d) delivered either:
 - i) on one of the following types of media: DVD-R, CD-R, thumb drive, and/or flash drive using in sufficiently padded packaging material to prevent damage to that CD-R, thumb and/or flash drive;
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FOIA REQUEST to VA Regional Office (Denver)
SMLLC.NRR201263
November 7, 2012

Page 3

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Cordially,
Jennifer Steel
Jennifer Steel, FOIA Officer
Satisfied Mind, LLC

Encl (1) Privacy Act Waiver

cc dd/file

**Satisfied Mind, LLC v. Shinseki & Gunn
Cause # TBD (Filed 1-29-2013)
U.S. District Court, N.D. Texas (Dallas Division)
Original Petition, Exhibit A
Page 13 of 15**



Satisfied Mind, LLC

Phone: (847) 232-9982

Fax: (214) 764-0168

PRIVACY ACT WAIVER

In order to waive my rights under the Privacy Act, 5 U.S.C. § 552a(b), and under any other federal or state law or regulation which controls access to my records, I give my prior written consent to the the Department of Veterans' Affairs, the Social Security Administration, the U.S. Department of Labor, the Office of Workers' Compensation, the Office of Personnel Management (OPM), the National Archives and Record Administration (NARA), the Department of Defense, the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard, and any other Federal Agency containing the military service and/or military medical records and/or any records in or related to the VA benefits claims of the Veteran Douglas B. Dietrich to disclose fully and promptly to Satisfied Mind, LLC, any and all records contained in my file(s) which this Company may request.

If these records include information protected under 38 U.S.C. § 7332 about drug abuse, infection with human immunodeficiency virus (HIV), alcoholism or alcohol abuse or sickle cell anemia, I specifically consent to that disclosure as well.

Signature: [Signature]

Date: 11/15/2012

Name (Veteran): Douglas B. Dietrich

VA Claim Number: [Redacted] Social Security Number and/or Individually Identifiable

Social Security Number [Redacted] Information Redacted

Telephone Number: [Redacted]

VA Regional Office handling claim: Denver

Phone: (847) 232-9982

Fax: (214) 764-0168

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YOUR LABEL NUMBER	SERVICE	STATUS OF YOUR ITEM	DATE & TIME	LOCATION	FEATURES
71603901984887411856	First-Class Mail®	Delivered	December 20, 2012, 11:08 am	WASHINGTON, DC 20420	Expected Delivery By: December 17, 2012 Certified Mail™ Return Receipt
		Arrival at Unit	December 20, 2012, 10:58 am	WASHINGTON, DC 20018	
		Depart USPS Sort Facility	December 20, 2012	WASHINGTON, DC 20018	
		Processed at USPS Origin Sort Facility	December 19, 2012, 8:12 am	WASHINGTON, DC 20018	
		Dispatched to Sort Facility	December 14, 2012, 5:34 pm	DALLAS, TX 75243	
		Acceptance	December 14, 2012, 3:45 pm	DALLAS, TX 75243	

Check on Another Item

What's your label (or receipt) number?

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I. (a) PLAINTIFFS

Satisfied Mind, LLC

DEFENDANTSEric Shinseki, Sec'y of the Dept. of Veterans Affairs
Will A. Gunn, General Counsel of the Dept. of Veterans Affairs(b) County of Residence of First Listed Plaintiff **Dallas County, Texas**

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Attig Law Firm, PLLC; Chris Attig, Attorney; PO Box 743485, Dallas, Texas 75374; (214) 431-4186

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**II. BASIS OF JURISDICTION**

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input checked="" type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

5 USC 552

Brief description of cause:

Defendant failure to respond to FOIA request, individual and pattern/practice

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

PENDING OR CLOSED:

(See instructions):

JUDGE

DOCKET NUMBER

DATE

January 29, 2013

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____